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March 1995

(MB)

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: NEVADA

The agency does not apply the trust provisions in any case in which the agency determines that such application would work an undue hardship.

The following criteria will be used to determine whether the agency will not apply the trust provisions because doing so would work an undue hardship:

Notice to applicant/recipient an undue hardship exception exists and the opportunity to appeal the decision will be given on the denial notice.

If undue hardship is claimed, the applicant/recipient will be responsible for providing convincing evidence application of the trust provisions would cause an undue hardship. The evidence must include:

1. A written statement from the client/authorized representative stating the reason they feel undue hardship applies.
2. Verification, if possible, there is no means, legal or otherwise, by which the client is able to recover and/or access assets held in the trust.
3. The client's relationship, if any, to the person(s) who are trustees of the trust.

Denial of eligibility would work an undue hardship against the individual when ALL of the following conditions exist:

1. The individual is otherwise eligible for Medicaid; AND
2. The Trustee has refused to make such income/resources available to the individual; AND
3. The individual has insufficient funds to cover the cost of institutionalized care; AND
4. Without Medicaid, the individual would be forced to go without life sustaining medical care as determined by an individual licensed to practice medicine in the State of Nevada; AND
5. Where the individual has the ability to amend the trust so it contains the provision, upon death of the individual the State receives an amount equal to the total amount of medical assistance paid on behalf of the individual under the State Plan; AND.

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6. The applicant/recipient has exercised all reasonable efforts and all possible avenues to recover and/or access the assets held in the trust.

A decision whether an undue hardship waiver will be granted should be made within forty-five (45) days from the date the undue hardship request is received by the Chief of Eligibility and Payments.

Under the agency's undue hardship provisions, the agency takes the option to exempt the funds in an irrevocable burial trust.

The maximum value of the exemption for an irrevocable burial trust is \$ N/A.

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